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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,238	02/05/2002	James B. Schrempp	AMC-005CIB	5358
28661	7590	05/03/2005	EXAMINER	
SIERRA PATENT GROUP, LTD. P O BOX 6149 STATELINE, NV 89449			TANG, KAREN C	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/072,238

Applicant(s)

SCHREMPP ET AL.

Examiner

Karen C. Tang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/5/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1- 8, 11-13, 16-18, 21-28, 30-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Pace et al hereinafter Pace (US 6,460,050).

1. Referring to Claim1, Pace discloses a new media identification system comprising (refer to Title): at least one analysis module for receiving work from a plurality of sources and generating a corresponding representation thereof (refer to Col 3, Lines 55-65 and Col 4, 110, refer to Fig 3); at least one First Tier identification (ID) server for identifying received works (refer to Col 3, Lines 30 - 45); and at least one Second Tier ID server for identifying repeating received works (refer to Col 3, Lines 45-60).

2. Referring to Claim 2, Pace discloses wherein said at least one analysis module further includes an input port configured to receive said received work from a networked source (it is inherent that there is an input port to receive information from network, refer to Col 3, Lines 55-65 and Col 4, Lines 53-67 and Col 5, Lines 1-30).

3. Referring to Claim 3, Pace discloses wherein said at least one analysis module further includes an input port configured to receive said received work from a broadcast source (refer to Col 3, Lines 55-65, and Col 4, Lines 53-67 and Col 5, Lines 1-30).

4. Referring to Claim 4, Pace discloses wherein said at least one analysis module further includes an input port configured to receive said received work in the form of a pre-broadcast digital form (email is a form of pre-broadcast digital form, refer to Col 3, Lines 55-65, and Col 4, Lines 53-67 and Col 5, Lines 1-30).

5. Referring to Claim 5, Pace discloses wherein said at least one analysis module and said at least one ID server may be coupled over a network (refer to Fig 3).

6. Referring to Claim 6, Pace discloses wherein said network comprises the internet (refer to Col 5, Lines 20-30).

7. Referring to Claims 7, 12 and 17, Pace discloses wherein said corresponding representation comprises feature vectors (refer to Col 4, Lines 35-40).

8. Referring to Claims 8, 13, and 18, Pace discloses wherein said corresponding representation comprises a spectral representation of said received work (digital ID, refer to Col 6, Lines 60-67).

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21. Referring to Claims 11, 16 and 21, Pace discloses wherein said Second Tier ID server is configured to identify said received work using a bit calculated key (refer to Col 3, Lines 60-67 and Col 4, Lines 1-15 and Col 5, Lines 1-30).

9. Referring to Claim 22, Pace discloses wherein said at least one analysis modules are further configured to receive a plurality of streaming sources for analysis at a single location (refer to Col 1, Lines 30-40).

10. Referring to Claim 23, Pace discloses wherein said at least one analysis modules are further configured to receive a plurality of streaming sources for analysis at a plurality of different access points of the network (Examiner interprets that provider's location can be anywhere, refer to Col 1, Lines 1-55).

11. Referring to Claim 24, Pace discloses wherein said at least one analysis module is configured to provide said representations to said at least one First Tier ID server at a predetermined time interval (refer to Col 5, Lines 40-55, and Col 6, Lines 1-18).

12. Referring to Claim 25, Pace discloses wherein said predetermined time interval comprises at least once a day (refer to Col 5, Lines 40-55 and Col 6, Lines 1-18).

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13. Referring to Claim 26, Pace discloses wherein said predetermined time interval comprises approximately once an hour (refer to Col 5, Lines 40-55 and Col 6, Lines 1-18).

14. Referring to Claim 27, Pace discloses wherein said at least one analysis module is configured to provide said representations to said at least one First Tier ID server in approximately real time (refer to Col 5, Lines 40-55)

15. Referring to Claim 28, Pace discloses wherein said at least one analysis module is configured to provide said representations to said at least one First Tier ID server (refer to Col 5, Lines 40-55) based on an out-of-band event.

16. Referring to Claim 30, Pace discloses a method for identifying new media comprising (refer to Title): receiving a segment of a media stream by a First Tier ID server; attempting, by said First Tier ID server to identify said segment (refer to Col 3, Lines 40-45); if identification is not possible, then, determining whether said segment is similar to previously received unidentified segments (refer to Col 4, Lines 60-67 and Col 5, Lines 1-55); and if said segment is similar to a previously received unidentified segment (Col 5, Lines 1-55), then sending said segment to a Second Tier ID server for identification.

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17. Referring to Claims 31, 40 and 43, Pace discloses wherein said Second Tier ID server includes a plurality of tiers of ID servers (refer to Col 5, Lines 14-67, and Col 6, Lines 1-18 and Col 7, Lines 30-40).

18. Referring to Claim 32, 41 and 44, Pace discloses further including the act of providing a reference database of segments expected to be detected on said First Tier ID server (refer to Col 5, and Col 6, Lines 1-18).

19. Referring to Claim 33, Pace discloses a system for managing the contents of an n-tiered ID system comprising (refer to Title): a Tier N server including a database (DS20, refer to Fig 3); at least one Tier N+1 server (210, refer to Col 5, Lines 14-30); and wherein said Tier N server is configured to send repeating unidentified segments to said Tier N+1 for identification (refer to Col 5, Lines 1-30).

20. Referring to Claim 34, Pace discloses wherein said Tier N+1 server is configured to notify said Tier N server of a repeating segment if a repeating segment is identified (refer to Col 5, Lines 30-40).

21. Referring to Claim 35, Pace discloses wherein each successive Tier N+1 server (210, refer to Fig 4) includes a database (second tier database, refer to Col 4, Lines 40-50) larger than the previous tier (refer to Col 6, Lines 62-67 and Col 7, Lines 1-5).

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22. Referring to Claim 36, Pace discloses wherein said successive tiers operate in parallel (refer to Col 3, 4, 5, 6, and 7).

23. Referring to Claim 37, Pace discloses wherein the operation of said successive tiers is aborted upon the identification of an unknown segment by a member of said successive tiers (refer to Col 5, Lines 1-15).

24. Referring to Claim 38, Pace discloses a set of smaller Tier-I ID servers having databases smaller than said Tier N server (refer to Col 4, 5 and 6).

25. Referring to Claim 39, Pace discloses a system for identifying new media comprising (refer to Title): means for receiving a segment of a media stream by a First Tier ID server; means for attempting, by said First Tier ID server, to identify said segment (refer to Col 3, Lines 40-45); means for determining whether said segment is similar to previously received unidentified segments if identification is not possible (refer to Col 4, Lines 60-67 and Col 5, Lines 1-55); and means for sending said segment to a Second Tier ID server for identification if said segment is similar to a previously received unidentified segment (refer to Col 5, Lines 1-55).

26. Referring to Claim 42, Pace discloses a program storage device readable by a machine containing a set of instructions to perform a method by the machine (refer to Col 4, Lines 1-40), the method comprising: receiving a segment of a media stream by a



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First Tier ID server (refer to Col 3, Lines 40-45); attempting, by said First Tier ID server, to identify said segment; if identification is not possible (refer to Col 4, Lines 60-67 and Col 5, Lines 1-55), then determining whether said segment is similar to previously received unidentified segments; and if said segment is similar to a previously received identified segment, then sending said segment to a Second Tier ID server for identification (refer to Col 5, Lines 1-55).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 10, 14, 15, 19, 20, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pace et al hereinafter Pace (US 6,460,050) in view of Abe et al hereinafter Abe (US 2002/0123990).

1. Referring to Claims 9, 14 and 19, Pace discloses wherein said Second Tier ID server is configured to identify said received work (refer to Col 5, Lines 13-55)

Pace does not expressly indicate utilizing the speech recognition system.

Abe discloses using the text output of a speech recognition system (refer to Fig 5).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Pace and Abe.

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It is not a patent distinction rather than field of usage limitation. The suggestion/motivation for doing so would have been that utilizing the text output of a speech recognition can apply on different environment.

2. Referring to Claims 10, 15 and 20, Pace discloses wherein said Second Tier ID server is configured to identify said received work (refer to Col 5, Lines 13-55).

Pace does not expressly indicate utilizing the musical score output of a music transcription system.

Abe discloses using the musical score output of a music transcription system (refer to Fig 5).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine both Pace and Abe.

It is not a patent distinction rather than field of usage limitation. The suggestion/motivation for doing so would have been that utilizing the music transcription system can apply on different environment.

3. Referring to Claim 29, Pace discloses wherein said First Tier ID server (refer to Col 30-50)

Pace does not expressly generate a playlist of identified work.

Abe discloses having a playlist (refer to Fig 5)

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Pace and Abe.

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The suggestion/motivation would have that Pace indicate utilizing the storage to store rejected messages (refer to Col 5, Lines 1-15). It is indicate that the depository stores unwanted emails/messages that is a list of messages/emails.

### ***Conclusion***

A shortened statutory period for reply to this Office action is set to expire **THREE MONTHS** from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KT

  
**ZARNI MAUNG**  
**SUPERVISORY PATENT EXAMINER**